

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE: JOHNSON & JOHNSON TALCUM  
POWER PRODUCTS MARKETING, SALES  
PRACTICES, AND PRODUCTS LIABILITY  
LITIGATION

No. 3:16-md-02738-MAS-RLS

**DECLARATION OF SUSAN M. SHARKO IN SUPPORT OF  
DEFENDANTS JOHNSON & JOHNSON AND LLT MANAGEMENT,  
LLC'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO  
STRIKE THE PLAINTIFFS' STEERING COMMITTEE'S  
SUPPLEMENTAL BRIEF IN SUPPORT OF ITS OPPOSITION TO  
DEFENDANTS' MOTION TO EXCLUDE PLAINTIFFS' EXPERTS'  
GENERAL CAUSATION OPINIONS AND AFFIDAVIT OF DR. DAVID  
MUTCH**

I, Susan M. Sharko, declare as follows:

I am an attorney and a partner with the law firm Faegre Drinker Biddle & Reath LLP, counsel for Defendants Johnson & Johnson and LLT Management, LLC (hereafter, "Defendants") in the above-captioned matter. The facts stated in this Declaration are true of my own personal knowledge. I submit this Declaration in Support of Defendants' Memorandum of Law in Support of Motion to Strike the Plaintiff's Steering Committee's Supplemental Brief in Support of Its Opposition to Defendants' Motion to Exclude Plaintiffs' Experts' General Causation Opinions and Affidavit of Dr. David Mutch, in the above case.

1. Attached hereto as **Exhibit 1** is a true and correct excerpt of the transcript of the deposition of David Mutch, M.D., dated February 13, 2021, in the matter of *Gallardo v. Johnson & Johnson*, No. 3:18-cv-10840.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 2024

/s/ Susan M. Sharko

Susan M. Sharko

# **Exhibit 1**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW JERSEY  
3  
4 IN RE: JOHNSON & JOHNSON  
5 TALCUM POWDER PRODUCTS  
6 MARKETING, SALES PRACTICES,  
7 AND PRODUCTS LIABILITY LITIGATION  
8  
9

10 MDL No. 16-2738 (FLW)(LHG)

11 THIS DOCUMENT RELATES TO:  
12  
13 ANNA GALLARDO, )  
14 )  
15 )  
16 Plaintiff, ) Case No. 3:18-cv-10840  
17 v. )  
18 )  
19 JOHNSON & JOHNSON, et al., )  
20 )  
21 Defendants. )  
22  
23 - - -  
24

25 SATURDAY, FEBRUARY 13, 2021

16  
17 Remote Video Deposition of DAVID G. MUTCH, M.D., taken  
18 pursuant to notice and conducted at the location of the  
19 witness in the State of Missouri, commencing at 9:04 a.m.,  
20 Central Time, on the above date, before Jennifer A. Dunn,  
21 Registered Professional Reporter, Certified Court Reporter.

22  
23  
24 GOLKOW LITIGATION SERVICES  
25 P: 877.370.DEPS | F: 917.591.5672  
deps@golkow.com

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1 Q Now, Dr. Mutch, you're aware -- you're aware  
2 that -- or are you aware that we're here today taking your  
3 deposition because Ms. Gallardo is claiming in her lawsuit  
4 that talc use caused her endometrioid ovarian cancer?

5 A I would have -- I -- I -- no one has said that,  
6 but since Johnson & Johnson is involved, my, you know, I'm  
7 not blind, so I would have thought that that would be the  
8 likely, you know -- a likely accusation.

9 Q Now, you've seen Ms. Gallardo fairly frequently  
10 over the last eight years. At any point in time in the last  
11 eight years did she ever ask you whether talc use -- about  
12 her talc use and endometrioid ovarian cancer?

13 A I -- I can't recall. She might recall that, but I  
14 cannot recall her answering that.

15 My -- my answer to her, if she asked that question  
16 in this setting, would be that -- that I do not believe that  
17 talc increases a risk of ovarian cancer, that if I did, that  
18 endometrioid cancer is typically not associated with talc,  
19 and that she had no calcifications or psammomatous bodies,  
20 so in my opinion that would be highly unlikely. That would  
21 have been my answer to her. That would be my typical answer  
22 to patients who ask that question.

23 Q Do you recall if Ms. Gallardo ever asked you about  
24 filing a lawsuit concerning her talc use?

25 A I -- I was surprised when I -- I was surprised

1 that she did that, yes. I mean, but, no, I mean, I was  
2 surprised when we got a request for records, yes, I was  
3 surprised.

4 Q And following up on your -- your last answer, is  
5 it correct that in caring and treating Ms. Gallardo, you do  
6 not believe that talc use caused her endometrioid ovarian  
7 cancer?

8 MS. GARBER: Object to the form. Lacks  
9 foundation based on prior testimony.

10 THE WITNESS: That would be my -- based on  
11 what I know, which is substantial --

12 MR. HEGARTY: I'm sorry, you're --

13 THE WITNESS: -- endometrioid cancer, the  
14 answer to that would be yes.

15 MR. HEGARTY: Can you start that answer -- I  
16 don't know if -- Jennifer, did you get that answer? Because  
17 it sort of broke up for me.

18 COURT REPORTER: Yes, it broke up for me as  
19 well.

20 MR. HEGARTY: Would you -- would you just  
21 read back my question? Doctor, the -- the video broke up  
22 right in the middle of your answer, so Jennifer didn't --  
23 wasn't able to type it.

24 Yeah, would you read the question back to the  
25 doctor, and, Doctor, would you mind giving your answer?

1 THE WITNESS: Am I supposed to answer this?

2 I mean, there was an objection.

3 MR. HEGARTY: No, you can answer it.

4 MS. GARBER: Well, Mark, sorry. With due  
5 respect, he's represented.

6 MS. VIDAL: No, Doctor. You -- subject to  
7 the objection, you can answer.

8 MR. HEGARTY: I'm sorry. Thank you. Sorry I  
9 interrupted you.

10 (The requested portion of the record was read  
11 back by the court reporter.)

12 THE WITNESS: If she asked me that question,  
13 which I cannot remember, that would be my -- my answer would  
14 be that I would be -- that I do not believe that talc would  
15 be associated with any ovarian cancer in particular, but  
16 certainly not with endometrioid cancer, and since there were  
17 no calcifications within her disease, that I would, you  
18 know, that it would be highly, highly unlikely that this was  
19 a talc-associated ovarian cancer.

20 BY MR. HEGARTY:

21 Q You mentioned --

22 MS. GARBER: Let me just make -- Mark, sorry.

23 MR. HEGARTY: Go ahead, I'm sorry.

24 MS. GARBER: I'm going to make a motion to  
25 strike the answer based on lack of foundation and that he

1 does not recall being asked that. And so it calls for  
2 speculation.

3 BY MR. HEGARTY:

4 Q And, Doctor, you mentioned a moment ago that you  
5 have a large file of medical literature on talc and ovarian  
6 cancer; is that right?

7 A That is correct.

8 Q So is this an area, an issue, talc use and ovarian  
9 cancer, of which you have kept up to date on?

10 A I would say I'm pretty up to date on it, yes.

11 Q And with regard to your review of the medical  
12 literature, what is your takeaway?

13 MS. GARBER: Object to the form.

14 THE WITNESS: Well, there are some studies  
15 that show that there's an increased risk, statistical  
16 increased risk, which is minimal, and probably not  
17 clinically relevant that there is an increased risk.

18 Obviously, we're all aware of the large lawsuits  
19 that have resulted from this. I'm not going to go into  
20 that.

21 But, certainly, there are histologic types that  
22 are typically not associated with this, and one of those  
23 would be endometrioid cancer, and especially cancers that  
24 have no calcification, calcium deposits, which this is such  
25 a case.

1

CERTIFICATE

2

I, Jennifer A. Dunn, Registered Professional

3

Reporter and Certified Court Reporter, do hereby certify

4

that prior to the commencement of the examination,

5

DAVID G. MUTCH, M.D., was duly remotely sworn by me to

6

testify to the truth, the whole truth and nothing but the

7

truth.

8

I DO FURTHER CERTIFY that the foregoing is a

9

verbatim transcript of the testimony as taken

10

stenographically by me at the time, place and on the date

11

hereinbefore set forth, to the best of my ability.

12

I DO FURTHER CERTIFY that I am neither a

13

relative nor employee nor attorney nor counsel of any of the

14

parties to this action, and that I am neither a relative nor

15

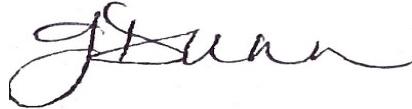
employee of such attorney or counsel, and that I am not

16

financially interested in the action.

17

18



19

"/s/JENNIFER A. DUNN"

20

Registered Professional Reporter

21

Certified Court Reporter

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23

Dated: February 21, 2021

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